

**RECEIVED**  
**CENTRAL FAX CENTER**

DEC 21 2004

## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of Jian Chen, <i>et al.</i>	Group Art Unit: 1646
Serial No.: 09/854,280	Examiner: Jiang Dong
Filed: May 10, 2001	
For: IL-17 Homologous Polypeptides and Uses Thereof	Attorney Reference: P1381R1C2/22338-403

**RULE 131 DECLARATION**

I, Jian Chen, Ellen Filvaroff, Audrey Goddard, Austin Gurney, Hanzhong Li and William I. Wood, hereby declare as follows:

1. I am one of the six named inventors of the claimed subject matter of the above-identified patent application.
2. The above-identified patent application claims priority to application serial no. 09/311,832 with the Patent Office on May 14, 1999, and I am a named inventor in that priority application. A copy of the priority application is attached as Exhibit A.
3. The above-identified patent application also claims priority to two provisional applications, 60/085,579 and 60/113,621, filed on May 15, 1998 and December 23, 1999, respectively.
4. All work described in the above-identified application and the priority applications was performed by me or one of the other named inventors (or on our behalf) in the United States of America.
5. I have read and reviewed US Patent Publication No. 2003/0003545 published to Ebner *et al.* on January 2, 2003 (hereinafter the "545 publication") (a copy of which is attached as Exhibit B). I understand that the '545 publication is based on application serial no. 09/320,713 filed with the Patent Office on May 27, 1999 and claims priority to three different priority provisional applications filed in the Patent Office in the time period between April 30, 1999 and May 29, 1998.
6. I have also read and reviewed the provisional applications referred to in the '545 publication; namely, No. 60/087,340, filed May 29, 1997 (attached as Exhibit C); No. 60/099,805 filed Sept. 10, 1998 (attached as Exhibit D); and No. 60/131,965 filed April 30, 1999 (attached as Exhibit E).
7. Based on my review of the earliest filed provisional application, No. 60/087,340, I conclude that this application does not disclose the nucleic acid sequence or the polypeptide sequence (i.e., SEQ ID NO:28 and 29) cited by the Examiner as a basis to

Serial No. 09/854,280

In re Application of Jian Chen, et al.

Page 2

reject the claims of the above-identified application. Instead, these two sequences, which the Examiner indicates as corresponding to SEQ ID NO:3 and 4 of the above-identified application, appear only in the second provisional application, No. 60/099,805 (hereinafter the "'805 application'"), filed September 10, 1998, and in applications to which the '545 application claims priority filed after September 10, 1998.

8. Prior to September 10, 1998, I, one of the other named inventors or a person acting on our behalf had identified an EST with a sequence similarity to "cytotoxic T-lymphocyte-associated antigen 8" (another name for IL-17)(entered into applicant's proprietary database as DNA number DNA49665), isolated the cDNA clone of such sequence (internal reference No. IL-17C-DNA62377)(notebook No. 29129, pgs. 37-42, 46, 48, 53-54), sequenced the cDNA for the full length clone (Designated DNA No. DNA62377), designed and prepared oligonucleotide primers to enable construction of protein expression vectors for IL-17C-DNA62377 (notebook No. 29416, p. 39), prepared an expression vector to enable production of IL-17C as an fc fusion protein using baculovirus (notebook No. 30469, p. 28) and confirmed protein expression via small-scale studies using the vector (notebook No. 30469, p. 53), performed large-scale protein expression experiments and purified the expressed IL-17C protein (notebook No. 30439, pgs. 35, 49-50 and notebook No. 30518, as noted in Applicant's proprietary database). See attached Exhibit F for documents demonstrating the above-described experiments.

\*\*\*\*\*

I declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patent issuing thereon.

10/9/2003  
Date  
Jian Chen\_\_\_\_\_  
Date\_\_\_\_\_  
Ellen Filvaroff\_\_\_\_\_  
Date\_\_\_\_\_  
Audrey Goddard

Document # 140509

Serial No.: 09 854,280

In re Application of Jian Chen, et al.

Page 2

reject the claims of the above-identified application. Instead, these two sequences, which the Examiner indicates as corresponding to SEQ ID NO:3 and 4 of the above-identified application, appear only in the second provisional application, No. 60/099,805 (hereinafter the "'805 application"), filed September 10, 1998, and in applications to which the '545 application claims priority filed after September 10, 1998.

8. Prior to September 10, 1998, I, one of the other named inventors or a person acting on our behalf had identified an EST with a sequence similarity to "cytotoxic T-lymphocyte-associated antigen 8" (another name for IL-17)(entered into applicant's proprietary database as DNA number DNA49665), isolated the cDNA clone of such sequence (internal reference No. IL-17C-DNA62377)(notebook No. 29129, pgs. 37-42, 46, 48, 53-54), sequenced the cDNA for the full length clone (Designated DNA No. DNA62377), designed and prepared oligonucleotide primers to enable construction of protein expression vectors for IL-17C-DNA62377 (notebook No. 29416, p. 39), prepared an expression vector to enable production of IL-17C as an fc fusion protein using baculovirus (notebook No. 30469, p. 28) and confirmed protein expression via small-scale studies using the vector (notebook No. 30469, p. 53), performed large-scale protein expression experiments and purified the expressed IL-17C protein (notebook No. 30439, pgs. 35, 49-50 and notebook No. 30518, as noted in Applicant's proprietary database). See attached Exhibit F for documents demonstrating the above-described experiments.

\*\*\*\*\*

I declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patent issuing thereon.

Date

9/15/03

Date

Jian Chen

Ellen Filvaroff

9/17/03

Date

Audrey Goddard

Document # 140509

2

Serial No.: 09/854,280

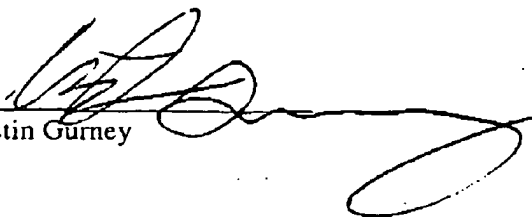
In re Application of Jian Chen, *et al.*

Page 3

8/29/07  
Date

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date

  
Austin Gurney

\_\_\_\_\_  
Hanzhong Li

\_\_\_\_\_  
William I. Wood

Document # 140509

Serial No.: 09 854,280

In re Application of Jian Chen *et al.*

Page 3

---

Date

9/6/03

Date

---

Austin Gurney

Hanzhong Li

---

Date

---

William I. Wood

Document # 140509

Serial 140509  
In re Application of Jian C. Li, et al.  
Page 3


\_\_\_\_\_  
Date

\_\_\_\_\_  
Austin Gurney

\_\_\_\_\_  
Date

\_\_\_\_\_  
Hanzhong Li

12/21/04  
Date

  
William I. Wood

Document # 140509